

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

|                     |   |                            |
|---------------------|---|----------------------------|
| GREGORY P. BARNETT, | ) | CIVIL NO. 07-00491 SOM-BMK |
| #A4000428,          | ) |                            |
|                     | ) |                            |
| Petitioner,         | ) | ORDER DENYING MOTION FOR   |
|                     | ) | RECONSIDERATION            |
| vs.                 | ) |                            |
|                     | ) |                            |
| FRANK LUNA,         | ) |                            |
|                     | ) |                            |
| Respondent.         | ) |                            |
| _____               | ) |                            |

**ORDER DENYING MOTION FOR RECONSIDERATION**

On April 3, 2008, Petitioner filed a Motion for Reconsideration of Order filed March 25, 2008, in which the court denied Petitioner's Motion to Expand Record, filed March 21, 2008. Docket No. 58. It appears to the court that Petitioner seeks reconsideration on the grounds of mistake or inadvertence.

On March 25, 2008, the court denied Petitioner's Motion to Expand Record, holding that the proposed exhibits did not relate to any past or proposed motion that Plaintiff had filed. The court notified Plaintiff that, if he believed that these documents were relevant to his claims, he could attach the documents to his Reply to Respondent's Answer. Petitioner now argues that the exhibits he sought to have included in the record were referenced in his Reply to Respondent's Answer and, therefore, the court should have granted his Motion to Expand Record.<sup>1</sup>

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<sup>1</sup>Although Petitioner did in fact reference said documents in his Reply, he did not attach them as exhibits to his Reply.

Petitioner's apparent reliance on the court's alleged mistake is wrong. As noted, Petitioner filed his Motion to Expand Record on March 21, 2008. At that time, Petitioner had not yet filed his Reply. As Petitioner did not file his Reply to Respondent's Answer until March 27, 2008, the court correctly denied his Motion to Expand Record on March 25, 2008. Accordingly, Petitioner's Motion for Reconsideration of the March 25, 2008 Order is **DENIED**.

In consideration of the fact that Petitioner's Reply includes reference to the documents at issue, including a: (1) letter from Myles Breiner to Simone C. Polak, dated August 8, 1994; (2) letter from Myles Breiner to Petitioner, dated October 25, 1995; and (3) computerized index of Criminal No. 92-0259, from July 19, 1994 to August 23, 1994, the court will file the documents as supplemental exhibits to Petitioner's Reply.

IT IS SO ORDERED.

IT IS SO ORDERED.

DATED: Honolulu, Hawaii, April 14, 2008.



/s/ Susan Oki Mollway  
Susan Oki Mollway  
United States District Judge

*Barnett v. Luna*, Civ. No. 07-00491 SOM; ORDER DENYING MOTION FOR RECONSIDERATION; hmg\Non dispositive 08\Barnett 07-491 SOM (dny mot for recon)

